

**CENTRAL PUGET SOUND  
GROWTH MANAGEMENT HEARINGS BOARD  
STATE OF WASHINGTON**

BRAD NICHOLSON,	)	
	)	
Petitioner,	)	<b>Case No. 04-3-0004</b>
	)	
v.	)	<b>ORDER OF DISMISSAL</b>
	)	
CITY OF RENTON,	)	<b>(NICHOLSON)</b>
	)	
Respondent,	)	
	)	
and	)	
	)	
THE BOEING COMPANY,	)	
	)	
Intervenor.	)	

---

**I. PROCEDURAL BACKGROUND**

On January 22, 2004 the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review (**PFR**) from Brad Nicholson (**Petitioner or Nicholson**) dated September 6, 2003, with four exhibits attached. The matter was assigned Case No. 04-3-0004. Petitioner challenges the City of Renton's (**Respondent or the City**) adoption of Ordinance Nos. 5026, 5027, 5028, 5029, 5030, 5031, 5032, 5034, 5038, 5039 (the **Ordinances**) and Resolution 3669 (the **Resolution**), all concerning "...a rezoning action designated LUA-02-141, CPA, R, EIS." The basis for the challenge is noncompliance with the Growth Management Act (**GMA or Act**), the State Environmental Policy Act (**SEPA**) and RCW 82.02.

Petitioner requests the Board find that the Ordinances and Resolution fail to comply with the GMA and SEPA and declare the Ordinances and Resolution invalid. Petitioner requests the Board delay establishing a schedule in this matter "...to complete the city proceedings prior to establishing a schedule..." The Board interprets the "city proceedings" to be a matter pending before the City of Renton Hearing Examiner entitled The Boeing Comprehensive Plan Amendments 2003 – Nicholson Appeal No. LUA 02-141, ECF, CPA, R, EIS (**Petitioner's EIS Appeal**) as described in the Hearing Examiner's Order dated January 19, 2004, a copy of which was attached to the PFR as an exhibit.

On January 23, 2004 the Board received a "Notice of Appearance" from the Boeing Company.

On February 2, 2004 the Board issued a Notice of Hearing (the **Notice**) in the above-captioned case. The Notice set a date for a prehearing conference (**PHC**) and established a tentative schedule for the case.

On February 3, 2004, the Board received a “Notice of Appearance” from the legal counsel for the City.

On February 11, 2004 The Board received “Index to Respondent City of Renton’s Record” (the **Index**) listing 600 exhibits.

On February 17, 2004 the Board received “Petitioner’s Board Requested Restatement of Issues” (**Restatement of Issues**).

On February 18, 2004 the Board received “Motion to Intervene by the Boeing Company” (**Boeing Motion to Intervene**) with two attachments.

On February 23, 2004, the Board conducted the prehearing conference on this matter in the Training Room adjacent to the Board’s office at Suite 2470, Bank of California Center, 900 4<sup>th</sup> Avenue, Seattle. Present for the Board were Joseph W. Tovar and Bruce C. Laing, Presiding Officer. Representing the petitioner *pro se* was Brad Nicholson. Lawrence J. Warren represented the City. Galen G. Schuler represented the Boeing Company, a proposed intervenor. Also present were Laura Heisler and Ketil Freeman, externs with the Board.

The Board discussed with the parties the documents in the Board’s file on this matter. In response to questions by the Board, Petitioner stated that City of Renton Ordinance 3100 cited in the PFR was inadvertently omitted from the attachments to the PFR. In response to questions by the Board, Counsel for Renton stated the City does not oppose The Boeing Motion to Intervene. Petitioner indicated he had not decided whether or not to oppose the Motion. The presiding officer stated that the deadline for Response to the Boeing Motion to Intervene is Monday March 1, 2004. The presiding officer set a deadline of Thursday March 4, 2004 for Reply to Response to the Motion to Intervene. The presiding officer asked counsel for the Boeing Company to participate in the Prehearing Conference discussions as a proposed intervenor.

The Board discussed with the parties the scope and procedural significance of the Petitioner’s EIS Appeal pending before the City of Renton Hearing Examiner. Counsel for the City stated the Hearing Examiner has thirty (30) days after the close of the appeal hearing, scheduled for Tuesday February 24, 2004, to enter his decision on the appeal. There is a ten day period for parties to request the Examiner to reconsider his decision. Petitioner and Counsel for the City disagree on whether or not the Renton City Council would consider an appeal from the Examiner’s decision on Petitioner’s EIS Appeal. The parties and the Board discussed alternative approaches to reconciling the timing to the City’s EIS process and the Board’s scheduling requirements within the 180 day time limit for the Board to issue a Final Order on the PFR in this case. Counsel for the City suggested a sequence in which the Petitioner, after the Examiner’s decision on the

Petitioner's EIS Appeal, could by motion propose additional EIS issues and other parties could respond. The parties and the Board agreed to the following sequence: By April 7, 2004, Petitioner may submit a Motion to add SEPA issues which arise out of the proceedings of the City Hearing Examiner on Petitioner's EIS Appeal and are not included in Petitioner's Restatement of the Issues; The deadline for response to Petitioner's Motion to add SEPA issues is April 14, 2004.

Counsel for the City expressed the opinion that the Board has jurisdiction over appeals of the adequacy of City's EIS and that court would require such an appeal be reviewed by the Board, and joined with any related issues under GMA, before the court would consider the matter.

The Board then reviewed its procedures for the hearing, including the composition and filing of the Index to the Record Below; Exhibit Lists and Supplemental Exhibits; Dispositive Motions; the Legal Issues to be decided; and a Final Schedule of deadlines.

The Board discussed with the parties the City's Index, the nature of the action's taken under Renton Ordinance Nos. 5026, 5027, 5028, 5029, 5030, 5031, 5032, 5034, 5038, 5039 and Resolution 3669, and the Board's need for Core Documents. The Board requested that parties who believe the City's Index should be amended to reflect inadvertently omitted items, discuss with the counsel for the City the possibility of a corrected Index as an alternative to Motions to Supplement the Record. Counsel for the City indicated the City is amenable to correcting the Index when appropriate and that the City would review the Index for completeness as it relates to the City Council actions cited in the PFR. The Board requested counsel for the City to submit copies of the following Core Documents: The Renton Comprehensive Plan; pertinent chapters of planning policy documents and implementing measures related to the actions of the City Council cited above; and copies of the maps amended or adopted by the City Council actions cited above.

On February 27, 2004 the Board issued a Prehearing Order setting a Final Schedule for proceedings in this matter and containing a Statement of Legal Issues.

On March 2, 2004 the Board issued an Order on Intervention granting the Boeing Motion to Intervene.

On March 8, 2004 the Board received Core Documents requested by the Board during the Prehearing Conference. *Supra* at 3.

On March 12, 2004 the Board received "Dispositive Motion of the City of Renton" (**Renton Dispositive Motion**) with seven (7) attached exhibits.

On March 12, 2004 the Board received "Revised Index to Respondent City of Renton's Record" (**Revised Index**).

On March 15, 2004 the Board received “Boeing’s Motion to Dismiss” (**Boeing Dispositive Motion**) with one (1) attached exhibit.

On March 29, 2004 the Board received “Petitioner’s Response and Brief to Dispositive Motions for Dismissal” (**Response to Dispositive Motions**) with twelve (12) attached exhibits. The Board notes that on March 22, 2004 the City of Renton Hearing Examiner issued a decision denying Mr. Nicholson’s appeal of the City’s Final Environmental Impact Statement and affirming the adequacy of that Statement. Exhibit 12 of attached Exhibits.

On April 2, 2004 the Board received “Rebuttal by City of Renton to Petitioner’s Response and Brief to Dispositive Motions for Dismissal” (**Renton Reply on Dispositive Motion**).

On April 5, 2004 the Board received “Boeing Reply in Support of Motion to Dismiss and in Opposition to Petitioner’s Proposals to Add New Issues, Supplement the Record, and Request Summary Judgment” (**Boeing Reply on Dispositive Motion**).

On April 13, 2004 the Board received “Boeing’s Opposition to Review of SEPA Issues Based on Petitioner’s Lack of Standing” (**Boeing’s Response on SEPA Issues**).

On April 13, 2004 the Board received “Renton’s Joinder in Boeing’s Opposition to review of SEPA Issues Based on Petitioner’s Lack of Standing, and Renton’s Objection to Addition of SEPA Issues for Failure to Follow Board Procedure” (**Renton’s Response on SEPA Issues**).

## **. II. DISCUSSION**

Appended to this order are the following items: Appendix A – Original Statement of Legal Issues as presented in PFR; Appendix B – Board’s instructions to Petitioner on restating Legal Issues and Board’s Guidelines for Framing Legal Issues; and Appendix C - Petitioner’s Restatement of Issues.<sup>1</sup> Respondent Renton and Intervenor Boeing each submitted motions to dismiss all of the Petitioner’s legal issues and with them the PFR. Petitioner Nicholson responded to the motions and included one new GMA issue and three new SEPA issues in the response. Renton and Boeing each replied. Both Renton and Boeing submitted additional motions regarding SEPA issues.

RCW 36.70A.290 provides in relevant part.

(1) All requests for review to a growth management hearings board shall be initiated by filing a petition that includes *a detailed statement of issues* presented for resolution by the board. Emphasis added.

---

<sup>1</sup> The Legal Issues in the PHO are the same as the issues in the Petitioner’s Restatement of Issues.

The Board's Rules of Practice and Procedure reflect this statutory direction to petitioners and provide:

WAC 242-02-210 ... *A petition for review shall substantially contain...*  
(2) ... (c) *A detailed statement of the issues presented for resolution by the board that specifies the provision of the act or other statute allegedly being violated and, if applicable, the provision of the document that is being appealed;*

(Emphasis supplied)

**The Board holds that the term "detailed" as used in RCW 36.70A.290(1) and WAC 242-02-210(2)(c) means: concise, to the point and containing the essential components that appear in the Board's guidelines for framing legal issues. See Appendix-B, *infra*. "Detailed" does not mean "lengthy" or including argument and evidence within the body of the issue statement. A legal issue is an allegation<sup>2</sup>, not an argument<sup>3</sup>. The appropriate place for argument is in the briefs, not the issue statement.**

The Board's rules also provide:

WAC 242-02-720 ... Any action may be dismissed by a board: ... (4)  
Upon a board's own motion for failure by the parties to comply with these rules or any order of the board.

The Petition for Review contains thirteen (13) issues. Appendix-A, *infra*. The Board's Notice of Hearing (**NOH**) directed the Petitioner to submit a re-statement of Legal Issues specifying which specific provisions of the challenged action are not in compliance with which specific sections(s) of the Growth Management Act. The NOH directed the Petitioner to the Board's "Guidelines for Framing Legal Issues." Appendix-B, *infra*. Petitioner submitted a Restatement of Issues containing twenty-one (21) issues. Appendix-C, *infra*. During the prehearing conference the Board indicated that, while the Petitioner has the right to frame the issues as he chooses, the Restatement of Issues includes subjects over which the Board does not have jurisdiction. Petitioner indicated he preferred to pursue the Legal Issues as they are worded in the Restatement of Issues. The Legal Issues in the Prehearing Order are those framed by the Petitioner in his Restatement of Issues.

In the PFR, Petitioner challenged 10 different ordinances and a resolution adopted by the City of Renton. These ordinances and resolution: amended the City's Plan; created new zoning districts; amended and established new development regulations; rezoned certain

---

<sup>2</sup> Allegation: The assertion, claim, declaration or statement of a party to an action, made in a pleading, setting out what he expects to prove. Black's law Dictionary, Fifth Edition, 1979, at 68.

<sup>3</sup> Argument: An effort to establish belief by a course of reasoning. *Id.*, at 98.

properties; and authorized execution of a development agreement. Each of these actions conceivably falls within the Board's jurisdiction to review.

Try as it might, the Board could not decipher, from the Petition for Review, Revised Legal Issues, or the briefing on motions, what issues, within the Board's jurisdiction, the Board was being called upon to resolve. Had the Petitioner clearly and concisely set forth discrete issues indicating which specific land use change accomplished by which specific ordinances or resolution failed to comply with which specific goal or requirement of the GMA, the Board could have proceeded on this matter. To Petitioner's detriment, and to the City's benefit, he failed to do so.

It is obvious to the Board that the petitioner expended significant time and energy in the preparation of the PFR and related materials. However, in the Board's review and discussion of the materials submitted, including the 21 Legal Issues framed by Petitioner, specifically GMA citations, the Board could glean possibly 4 or 5 Legal Issues that may have related to compliance with the GMA. However, even in light of the sparse GMA citations, there was no indication of which action the City of Renton took that ran afoul of a GMA goal or requirement.

### **III. CONCLUSIONS**

The appeal does not comply with RCW 36.70A.290(1) or the Board's Rules regarding the content of a Petition for Review, specifically WAC 242-02-210(2)(c). Therefore, the appeal lacks legal merit and warrants dismissal without further proceedings under the provisions of WAC 242-02-720(4).

Future Petitioners should take to heart the Board's dismissal of this case, and be certain to articulate in their petition for review "a detailed statement of the issues presented for resolution by the Board *that specifies the provision of the [GMA] allegedly being violated, and if applicable, the provision of the document that is being appealed.*" WAC 242-02-210. Failure of a party to comply with the Board's rules of practice and procedure or a Board order, may lead to dismissal of an action on the Board's own motion. WAC 242-02-720.

More is not always better, in terms of numbers of issues or numbers of sentences in each issue. In some cases, such as this one, the sheer volume and convolution of the issue statements make it impossible for the Board to discern the essential elements of a justiciable issue.

### **IV. ORDER**

Based upon review of the Petition for Review, the briefs and materials submitted by the parties, the Act, Board rules, and prior decisions of this Board and other Growth Management Hearings Boards, the Board enters the following Order:

*Nicholson v. City of Renton*, CPSGMHB Case No. 04-3-0004 is **dismissed with prejudice**. All further scheduled hearings on this matter are **cancelled** and the case is **closed**.

So ORDERED this 19<sup>th</sup> day of April, 2004.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

---

Bruce C. Laing, FAICP  
Board Member

---

Edward G. McGuire, AICP  
Board Member

---

Joseph W. Tovar, FAICP  
Board Member

Note: This Order constitutes a final order as specified by RCW 36.70A.300 unless a party files a motion for reconsideration pursuant to WAC 242-02-832.

## **Appendix A**

### **Original Statement of Legal Issues as presented in PFR**

#### **LEGAL ISSUE NUMBER 1:**

Can the City Rezone the Subject property and while the only justification that has been provided indicates that it would benefit only the proponent and sales tax revenue, while its own comprehensive plan provisions indicate a requirement to sustain and expand the current industrial and manufacturing employment base?

#### **LEGAL ISSUE NUMBER 2:**

Is it not Arbitrary and Capricious and Clearly erroneous to proceed with a rezone in this case and when the proponent has utterly failed to prove that the condition of the public morals has changed at all since the last time the property was zoned and argues to exclude substantive evidence and when in fact there is no rational public interest justification for the general economic welfare therefore constituting defiance of the Growth Management Act?

#### **LEGAL ISSUE NUMBER 3:**

Can the City or the proponent show that industry and manufacturing are no longer desirable to Renton and Washington citizens and amend its zoning map and when approximately 13,000 people are presently employed at Boeing, and when the state has now offered the Company over three billion dollars and more in state tax value as an incentive to continue to do business in this state?

#### **LEGAL ISSUE NUMBER 4:**

Can a rezone and map amendment that would allow a large shopping center and condominiums proceed to replace industry and manufacturing and when the proponent has expressed no plans to terminate their present operations, be allowed under the Growth Management Act and the city comprehensive plan?

#### **LEGAL ISSUE NUMBER 5:**

Can the subject property be rezoned and when there has been no specific articulation as to the condition and details as to how the proposal furthers a maximum economy pursuant to the public safety, health, morals and general welfare or the objectives for economic development?

#### **LEGAL ISSUE NUMBER 6:**

Can the City council approve a rezone on the Boeing Consolidated operations portion of the subject site and when it has been specifically stated that there are no plans to change the use of the site for the foreseeable future and that the application was made only for the purpose of consideration and when there has been no expression of the need to perform the planning in accordance with the Growth Management Act and its objectives?



LEGAL ISSUE NUMBER 7:

Can the City amend and proceed with a code and development regulations change and when their own code requires impact fee statutes to be readopted as Growth Management fees and when the existing code ignores the plain and unambiguous language of RCW 82.02 and 36.70A.070 RCW?

LEGAL ISSUE NUMBER 8:

Can the City amend its code and development regulations and for the purpose of a converting industrial manufacturing to large retail shopping center and condominiums while alleging that there would be less pollution generated from vehicles and asphalt using the 1990 King County Manual in lieu of maximum extent practicable and best available science regulations and while conveying storm water into Lake Washington and when there are so many sensitive and endangered species immediately adjacent to the subject site and when they have not expressed the rationale for their departure from the science based recommendation contained within the record created before them?

LEGAL ISSUE NUMBER 9:

Can the City proceed without using Best Management Practices contained in the Ecology manual and when there are no factual findings contained in the official record indicating that the City intends to protect habitat for endangered salmon utilizing best management practices or substantive evidence justifying their departure from best available science requirements?

LEGAL ISSUE NUMBER 10:

Can the City Hearing Examiner order, and Proponent and Respondent argue and litigate to exclude evidence of social and economic and other consequences and then still not be subject to an order of invalidation and when it has therefore not demonstrated compliance with objective number 5 and other objectives of the act?

LEGAL ISSUE NUMBER 11:

Are the Zoning ordinances listed above consistent with and do they implement the City economic development element objective as is required by the act without requiring that the City sustain and expand the current manufacturing and industrial employment base and if not should they be invalidated because they do not implement such comprehensive plan provisions?

LEGAL ISSUE NUMBER 12:

Is the City comprehensive plan an internally consistent document as is required by the act if the map amendments are included into the plans and development regulations?

LEGAL ISSUE NUMBER 13:

Are these ordinances, zoning, development regulations, new zoning map, and identified issues articulated herein compliant and guided by the exclusive goals and objectives of the Growth Management Act and SEPA, with particularity the environmental objective 10, economic objective 5, and the public participation objective and without inclusion of

legal justification for departing from the legal requirements articulated in the attached exhibit originating as a motion to the City Hearing examiner or described in the record or this petition?

## Appendix B

### Board's Instructions to Petitioner for Re-stating Legal Issues and Board's Guidelines for Framing Legal Issues

The Notice of Hearing for this matter contained the following instructions to the Petitioner:

By **Tuesday February 17, 2004**, the Petitioner is directed to submit to the Board, with a copy to the City, a **re-statement of Legal Issues**. The re-statement of legal issues shall specify which specific provisions of the challenged action are not in compliance with which specific section(s) of the Growth Management Act, Chapter 36.70A RCW. Petitioner is directed to the "Guidelines for Framing Legal Issues" which is appended to this notice.

NOH at 4.

#### State of Washington Central Puget Sound Growth Management Hearings Board Guidelines for Framing Legal Issues

- A legal issue should be stated in the form of a question that the Board can answer "yes" or "no".
- A legal issue is an allegation that a local government (city or county) action either *fails to comply* with specific goals and/or requirements of the Growth Management Act (GMA), the Shoreline Management (SMA) or State Environmental Policy Act (SEPA) (as to GMA and SMA actions) or is *inconsistent* with some GMA-adopted enactment, such as countywide planning policies, a comprehensive plan, or a development regulation.
- A legal issue should cite which specific provisions of the local government action are alleged not to comply with which specific provisions of which statute; or which specific provisions of a local government action are inconsistent with which specific provisions of which GMA-adopted enactment.
- A legal issue may include a phrase that briefly identifies the reason for the allegation of noncompliance and/or inconsistency. However, legal issue statements should

generally be brief, devoid of argument or evidence, both of which will be presented by the respective parties in the written briefs and during oral argument at the hearing on the merits.

Examples

- 1. Did the City/County adoption of its comprehensive plan fail to comply with the requirements of RCW 36.70A.140 because it did not provide for early and continuous public participation?*
- 2. Does Transportation Policy T-2 of the City/County Comprehensive Plan fail to comply with the requirements of RCW 36.70A.070(6) because it does not include an analysis of funding capability?*
- 3. Is Land Use Policy LU-101 of the City/County Comprehensive Plan inconsistent with County-wide Planning Policies (CPPs) because it prevents the City from accommodating the population target allocated by CPP FW-22?*
- 4. Does the City/County Comprehensive Plan fail to comply with RCW 36.70A.070(preamble) because the Land Use Element is inconsistent with the Housing Element?*

## Appendix C

### Petitioner's Restatement of Issues

#### Legal Issue 1

*Whether some, most, or all of the enumerated ordinances and their associated zoning map at issue herein and disputed before this board in the Petition for Review, are unlawfully adopted by the City of Renton; because they violate the substantive and procedural requirements of the GMA and SEPA; are therefore subject to an order under 36.70A.300 RCW and a determination of non-compliance and remand and/or invalidity under 36.70A.302 RCW because of failure to comply with requirements outlined in 36.70A.130(b) RCW and 43.21C.030(1)(2)(a) RCW; and the negative restraints arising therefrom; and from facts already evident; included into the record that prove that these actions constitute arbitrary and capricious spot zone in violation of the intent and purpose of provisions of State legislative enactments, State administrative rules, and of Article 11 § 11, and Article 1 § 12 of our State Constitution according to interpretations by our State courts of Law, and are subject to the supremacy principle of the United States Constitution ?*

#### Legal Issue 2

*Do the enumerated ordinances and associated zoning map at issue herein fail to be guided by the goals of 36.70A.020 RCW (1),(2),(3),(5),(10) when their EIS demonstrates material substantial evidence within the record indicating and proving that it would benefit only their exclusive and unilateral proponent objectives, and exclusive City sales tax revenue goals (outside of the act and without regard to the requirements of citizens)?*

#### Legal Issue 3

*Whether legitimate and simultaneous State legislation and City comprehensive plan Economic Development Elements and provisions require a continued commitment to “sustain and expand the current industrial and manufacturing employment base” according to adopted City comprehensive planning because 36.70 RCW requires maximum economies and health, safety, morals, and general welfare requirements to be satisfied as required by 43.21C.030 RCW and as required by the consistency requirements of chapter 36.70A RCW ?*

#### Legal Issue 4

*Is the City comprehensive plan non-compliant with the various consistency provisions of 36.70A RCW because the purported City Land use element is inconsistent with the adopted and valid City Economic development element and therefore because of such non-compliance with the act is it subject to remand or invalidation ?*

#### Legal Issue 5

*Did the City fail to comply with the consistency and implementation requirements of 36.70A.040 RCW, 36.70A.070 RCW, 36.70A.080 RCW, and 36.70A.130(b) RCW when it adopted the ordinances enumerated in the petition, its zoning map, and implementing measures while the comprehensive plan economic development element states its goal is to sustain and expand the current industrial employment base while the valuable industrial operations at the site are continuing ?*

#### Legal issue 6

*Does the purported City Land use element and related development regulations violate SEPA 43.21C.020 RCW, 43.21C.030 RCW and the subject intent and purpose of 36.70A.3201 RCW requiring full consideration of local circumstances, and implementation of harmony; implementation of State requirements and laws, and for one reason (among others) because the State citizens have expressed their conviction with over three billion dollars and more in state tax value as incentive for aerospace manufacturing to continue in this state and if so, should that land use element and subsequent development regulations then be invalidated for non-compliance or remanded for compliance pursuant to the responsibilities outlined in 43.21C.020(1)(a)(b)(c)(2)(a)(b) RCW in order to fulfill the social, economic, and all those requirements of Washington citizens ?*

#### Legal Issue 7

*Is it not true that the City amendments and regulations fail to be guided by the Economic and social goals of 36.70A.020(5)(10)(11) RCW, when the facts of record indicate only that the City and the Proponent have litigated to exclude a reasonably thorough discussion of those social and economic impacts that are neither remote nor speculative and are therefore noncompliant with the act and therefore should be either invalidated or remanded for compliance ?*

#### Legal Issue 8

*Does the purported adoption of the enumerated ordinances, associated zoning map, and their development regulations fail to be guided by the provisions of 36.70A.020(10)(11) RCW and 36.70A.035 RCW, or fail to be compliant with related provisions requiring early and continuous public participation; when petitioner requested discussion of social, economic, and other consequences; and City argued; and limited issues; and excluded such discussion and important material facts; those facts indicating that the procedural requirements of 43.21C.020(1)(c) were violated; and in the process the City and Proponent effectively refused to acknowledge or encourage the thoughtful comments or responses of Petitioner (a citizen of Renton) ?*

#### Legal Issue 9

*Is it not true that because the City purports to plan under 36.70A.040 RCW, it must comply with 36.70A.130(b) RCW; and amend and update its Capital facilities element pursuant to 36.70A.070(3)(a)(b)(c)(d)(e) in order to be guided by 36.70A.020(12) RCW, effectuate 43.21C.030 RCW including the legal mandates of 82.02 RCW to insure that*

*adequate infrastructure will be available at the time the future developments might be available for occupancy (if the property is so zoned) ?*

**Legal Issue 10**

*Whether citizenry should be required to mitigate transportation impacts after projects are complete; under 36.70A.070 RCW; because the EIS and the credit trips extended set the trips for a large scale retail shopping center covering 280 acres of industrially zoned land at only around 5 or 6 thousand additional trips per day, (unfairly and irrationally)(supposedly after the developments are ready for occupancy) and also because the City has not adopted or implemented development regulations that would legally address mitigation of cumulative impacts ?*

**Legal Issue 11**

*Are the City development regulations non-compliant with the consistency requirements and 36.70A.070 RCW without change or amendment; and inclusion of terms of 82.02 RCW; (nexus and proportionality limits) into their plans and development regulations; and also due to the fact that according to their own ordinance 3100, ordinance 2913 they must be readopted under the GMA; effectuating 43.21C.030 RCW and its legal requirements; without amendment according to 36.70A.130(b) with those amended regulations compliant with the plain and unambiguous language of 82.02 RCW and their own ordinances and therefore subject to an order of remand or invalidation requiring compliance ?*

**Legal Issue 12**

*Do the City development regulations and comprehensive planning fail to be guided by 36.70A.020(12); RCW without inclusion of a regulation that requires cumulative transportation impacts to be reasonably mitigated in furtherance of a legitimate and amended capital facilities element and an impact fee ordinance compliant with 36.70A.070 according to 82.02 RCW because 43.21C.030 RCW requires compliance with Washington laws ?*

**Legal Issue 13**

*Do the enumerated ordinances fail to be guided by 36.70A.020(2)(3)(12) RCW because they would cause, (among other reasons) unnecessary increased commuting, probable loss of many jobs in the City and State, and contribute to urban sprawl against the goals of the act; and while it is obvious that eventually industry would need to be redeveloped outside of the urban growth area in order to maintain a sustainable and maximum economy ?*

**Legal Issue 14**

*Are the development regulations and Comprehensive planning non-compliant or violative of 36.70A and 43.21C RCW because the capital facilities element is inconsistent with the land use element and are they therefore subject to remand or invalidation under the authority of the act ?*

#### Legal Issue 15

*Is the City capital facilities element invalid, volatile, or non-compliant because it does not contain all of the elements required of it under 36.70A.070 RCW and must it therefore be remanded for amendment or reversal ?*

#### Legal Issue 16

*Is it not true that this board has the authority to require amendment to these growth management planning and land use regulation issues under 36.70A.130(b) RCW and 43.21C.030 RCW because Renton development regulations regarding impact fee mitigation and other identified issues clearly do not contain the provisions required by Washington Laws ?*

#### Legal Issue 17

*Should this board require the City to amend its Comprehensive plan and Storm water management development regulations and design manual, (RMC 4-6-030) (1990 King County Manual) because 36.70A.130(b) RCW requires all amendments to comply with the act, and 36.70A.172 RCW requires the Best Available Science to be used to protect the quality of Lake Washington and Cedar river and the salmonid species that inhabit them ?*

#### Legal Issue 18

*Whether the City revise its development regulation to be equivalent to the 2001 Ecology Manual because it was recommended in its EIS, because it is required in order to implement NPDES phase II, 4(d) rule, and United States Code 33 U.S.C. Chapter 26 § 1251, and Environmental Protection Agency rules and regulations, and while because it is also required by its own policy for the Protection of Salmonid Species, and because it is required to do so pursuant to 43.21C.030 RCW and 36.70A.130(b) RCW; and the City has expressed no rational basis for departure from those requirements and those empirical scientific bases are a specific and particular requisite of the GMA ?*

#### Legal Issue 19

*Should the City comprehensive plan environmental element be amended to add and require the use of Best Available Science requirement of 36.70A.172 RCW and language and the maximum extent practicable requirement of 43.21C.020(2) to protect the valuable water resources belonging to citizens under the requirement of 36.70A.130(b) RCW ?*

#### Legal Issue 20

*Does the Storm water Planning and regulation of the city fail to be guided by the provisions of 36.70A.020(10) because it failed or refused to include an explanation of the rationale for the departure from the Best Available Science recommendation included in their EIS pursuant to 36.70A.172 RCW to protect State waters and therefore does not observe the Best Available Science requirement and should it therefore be remanded or invalidated ?*



**Legal Issue 21**

***Do the enumerated ordinances and the rezoning fail to be guided by 36.70A.020 (10)(11) RCW and should they be reversed or invalidated according to Washington Laws and the GMA because the decision makers failed to discuss or address or make factual findings with regard to my (Petitioner) comments; that clearly prove and demonstrate that the “felt necessities of the public, the ethical and moral demands of social and economic institutions, and even the prejudices that we share”, “have a good deal more to do with it”; that circumstances have not changed because Boeing is to continue to operate their business on the subject property for the “foreseeable future”; their conclusions being unsubstantiated, and also because of the fact they have disregarded and neglected and perpetrated violations of their responsibilities outlined by 43.21C.020(1)(a)(b)(c) RCW, and should they then therefore be determined to be unlawful and subsequently invalidated or remanded for compliance ?***